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FISCAL IMPACT STATEMENT

LS 7381

BILL NUMBER: SB 528

NOTE PREPARED: Feb 15, 2013

BILL AMENDED: Feb 14, 2013

SUBJECT: Gaming.

FIRST AUTHOR: Sen. Boots

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X
X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) The bill does the following:

The bill authorizes the use of limited mobile gaming systems.

The bill allows the Indiana Horse Racing Commission (IHRC) to reduce the percentage that a permit holder is required to retain from amounts wagered if reducing the amount retained is in the best interests of horse racing in Indiana.

The bill allows gaming licensees and an operating agent to deduct up to \$2 M of wagers made by out of state patrons of a riverboat casino or racino using noncashable vouchers, coupons, electronic credits, or electronic promotions provided by the licensee or operating agent from the adjusted gross receipts (AGR) of the licensee or operating agent.

The bill authorizes riverboats to move inland to adjacent properties.

The bill replaces the riverboat admissions tax with a supplemental wagering tax equal to 3.45% of AGR. It provides that entities are entitled to a 50% supplemental distribution in FY 2015 and no supplemental distribution in a state fiscal year that begins after June 30, 2015.

The bill authorizes table games at the racinos, and provides that the racino graduated wagering tax rate structure match the rates imposed under the riverboat wagering tax. It provides that the lowest bracket of the wagering tax rate schedule for riverboats and racinos that had less than \$75 M of AGR during the preceding

state fiscal year is 5% instead of 15%. It imposes an additional tax of \$2.5M if the riverboats and racinos taxed under the alternative schedule receive AGR exceeding \$75 M in a particular state fiscal year.

The bill requires a racino in Shelby County to resume paying a supplemental fee at 2% of AGR in FY 2014 and 1% of AGR in FY 2015 and FY 2016. Revenue from the fee is distributed to a riverboat casino owner who commenced gambling operations after June 30, 2006.

The bill establishes the Indiana Gaming Investment Tax Credit for certain capital investments that are made after December 31, 2013, and before January 1, 2019, by a licensed owner or operating agent of a riverboat casino or by a racino licensee. It provides that the amount of the tax credit is equal to 10% of the qualified capital investment made by the taxpayer during the taxable year. It specifies that the total amount of tax credits awarded may not exceed \$40 M in a state fiscal year.

The bill adds gaming agents and gaming control officers to the definition of "law enforcement officer" for purposes of the criminal code.

The bill appropriates money in the West Baden Springs Historic Hotel Preservation and Maintenance Fund to the Department of Natural Resources. It authorizes the owner of the Orange County casino to submit claims of not more than \$2 M per state fiscal year for maintenance expenses of its qualified historic hotel.

The bill changes the AGR set aside from racino wagering from 15% of AGR to 13% of AGR.

Effective Date: (Amended) Upon passage; July 1, 2013; January 1, 2014.

Summary of NET state impacts: (Revised) The estimated impact of the bill on state funds is summarized in the table below:

ENTITY / FUND	FY 2014	FY 2015
State General Fund	\$1.65 M	\$25.13 M
IEDC	(\$0.01 M)	(\$0.04 M)
State Fair Commission	\$0.1 M	(\$1.6 M)
Division of Mental Health	0.0	(\$1.0 M)
TOTAL	\$1.74 M	\$22.49 M

Explanation of State Expenditures: (Revised) *Admissions Tax Replaced with a Supplemental Wagering Tax:* The bill repeals the \$3 per patron riverboat admissions tax and replaces it with a 3.45% supplemental riverboat wagering tax beginning in FY 2014. It is estimated that the supplemental wagering tax would generate revenue approximately equal to the current admissions tax.

Current statute guarantees that local units and state agencies (the State Fair Commission and the Division of Mental Health) receiving admissions tax revenue from riverboat casinos other than from the French Lick Casino will annually receive an amount equal to their FY 2002 admissions tax distribution. Current statute provides for supplemental hold-harmless distributions to these local units and state agencies equal to the difference between their FY 2002 distribution level and the admissions tax distributed to them during a

particular fiscal year. The hold-harmless distribution is made by September 15th of the fiscal year following the fiscal year in which the shortfall occurs.

The bill provides that local units and state agencies receiving revenue from the new supplemental wagering tax are entitled to 50% of the supplemental hold-harmless distribution in FY 2015 (for FY 2014 shortfalls) and no supplemental hold-harmless distributions beginning in FY 2016 (for shortfalls beginning in FY 2015). It is estimated that this change could decrease state General Fund expenditures for hold-harmless payments to local units and state agencies by \$24.7 M in FY 2015. The decrease in expenditures could be in the range of \$45 M to \$50 M annually beginning FY 2016.

Pari-Mutuel Wagering Handle Retained by Permit Holder: The bill allows the IHRC, upon request of a horsemen's association, to reduce the statutorily specified shares of the pari-mutuel wagering handle that a permit holder retains under current statute if it is in the best interest of the horse racing industry. The reduction in amounts retained by the permit holder would be used to increase purses. A permit holder withholds: (1) 18% of the total of money wagered on each day at the racetrack or satellite facility; plus (2) an additional 3.5% of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility. Shares of the amounts withheld are required by statute to be retained by the permit holder and used for purses and payment of pari-mutuel taxes.

Explanation of State Revenues: (Revised) *Promotional Free Play Deduction for Riverboat Casinos and Racinos:* The bill provides an adjusted gross receipts (AGR) deduction of up to \$2 M annually for promotional free play provided by a riverboat casino or racino to patrons living outside of Indiana. The deduction is effective beginning in FY 2014. The deduction reduces the taxable base for the riverboat wagering tax, the racino wagering tax, and the required set aside of racino AGR for horsemen and other purposes. The estimated impact on state funds from the free play deduction is summarized in the table below.

Tax Type	Fund Type	FY 2014	FY 2015
Riverboat Wagering Tax	State General Fund	(\$5.53 M)	(\$5.53 M)
Riverboat Wagering Tax	IEDC	(\$0.01 M)	(\$0.01 M)
Racino Wagering Tax	State General Fund	(\$0.90M)	(\$0.88M)
TOTAL		(\$6.44 M)	(\$6.42M)

Based on the range of promotional spending reported by casinos in Pennsylvania and New Jersey, it is assumed that all the casinos will claim the full \$2 M AGR deduction. Some of the revenue loss from the promotional free play deduction could be offset if the deduction induces additional promotional spending by the casinos and racinos, which in turn increases the aggregate amount of spending by gamblers in the state. A small portion of the wagering tax revenues from the French Lick casino is distributed to Indiana Economic Development Commission (IEDC). The revenue loss estimates are based on the Revenue Technical Committee forecast (December 17, 2012) for gaming revenue.

(Revised) *Set Aside of Racino AGR:* Under current law, the racinos are required to pay 15% of their annual slot machine AGR to the following purposes: (1) Tobacco Master Settlement Fund; (2) Gaming Integrity Fund; (3) the state Breed Development Funds; (4) private horsemen's associations; and (5) horse racing purses. A portion of the 15% payment that exceeds a specified annual cap is deposited in state General Fund. The bill

changes the set aside to 13% of AGR beginning in FY 2014. This not expected to impact the distributions to the purposes described above because of the expected increase in racino AGR from table games.

(Revised) *Table Games, Mobile Gaming Device Wagering, and Wagering Tax Rate Structure*: The bill does the following beginning in FY 2014.

- (1) Allows the racinos to operate live table games.
- (2) Changes the racino wagering tax schedule to the wagering tax schedule imposed on the riverboat casinos.
- (3) Allows wagering on racino gambling games through mobile gaming devices at the racinos.
- (4) Imposes the racino wagering tax on the combined AGR from slot machines, table games, and mobile gaming devices.
- (5) Provides that the lowest bracket of the wagering tax rate schedule for riverboat casinos and racinos is 5% of the first \$25 M of annual AGR (instead of 15%) for riverboat casinos or racinos that had less than \$75 M in annual AGR during the preceding state fiscal year.

The estimated impact on state funds from these changes is summarized in the table below.

Tax Type	Fund Type	FY 2014	FY 2015
Racino Wagering Tax	State General Fund	\$22.2 M	\$21.0
Riverboat Wagering Tax	State General Fund	(\$13.8 M)	(\$13.5)
TOTAL		\$8.4 M	\$7.5 M

The FY 2014 estimate assumes a full year of live table game operations at both racinos. Estimates are based on the share of the total AGR at Indiana riverboat casinos generated by table games. It is estimated that live table game operations at the racinos could displace: (1) gambling on virtual table games currently operated by the racinos; and (2) gambling on table games at competing riverboat casinos. The displacement of virtual table game activity would reduce slot machine wagering tax revenue from virtual table games. It is assumed that virtual table games generate about 7% of the AGR at the racinos and that half of that activity would shift to live table games. Displacement of table game play at competing riverboat casinos would reduce revenue from the riverboat wagering tax. It is estimated that about 44% of the racino AGR from slot machines is displaced from riverboat casinos. This estimate is based on the gaming revenue model adopted by the Revenue Technical Committee (December 17, 2012).

It is estimated that at least one Indiana casino could fall below that \$75 M AGR threshold and pay the 5% wagering tax rate on the lowest wagering tax bracket.

(Revised) *Admissions Tax Replaced with a Supplemental Wagering Tax*: The bill repeals the \$3 per patron riverboat admissions tax and replaces it with a 3.45% supplemental riverboat wagering tax. It provides that local units and state agencies receiving admissions tax revenue, and the state General Fund, would receive supplemental wagering tax revenue in the same proportions as under the admissions tax. For local units and state agencies that receive admissions tax revenue from riverboat casinos other than the French Lick casino, the supplemental hold-harmless distribution would be equal to 50% in FY 2015 (for a FY 2014 shortfall). The bill removes the hold-harmless supplemental distributions starting FY 2016.

The impact on state revenues from repealing the riverboat admissions tax and imposing the supplemental

wagering tax on riverboats casinos and the changes to the hold-harmless guarantee distributions is summarized in the table below.

Fund Type	FY 2014	FY 2015
State General Fund	(\$0.3 M)	(\$0.7 M)
State Fair Commission	\$0.1 M	(\$1.6 M)
Division of Mental Health	0.0	(\$1.0 M)
TOTAL	(\$0.2 M)	(\$3.3 M)

Riverboat Relocation to Land-Based Facility: The bill permits a riverboat casino owner to relocate gaming operations from the riverboat casino to a land-based facility without the approval of the Indiana Gaming Commission (IGC), provided the land-based facility: (1) is located on property adjacent to the dock site of the riverboat casino; and (2) complies with all applicable building codes and any safety requirements imposed by the IGC. The bill prohibits the riverboat owner from conducting gaming operations simultaneously at an inland casino and a docked riverboat. The bill also prohibits the IGC from imposing a fee for the privilege of relocating.

The potential fiscal impact of riverboat casinos around the state relocating to land-based operations is indeterminable and would depend on various factors, including ownership, facility attributes, market factors, and capital availability. In this case, relocation to a land-based facility next to the dock site of the riverboat casino will not affect the geographic markets currently served by the riverboat casinos.

(Revised) *Indiana Gaming Investment Tax Credit:* The bill provides a nonrefundable income tax credit for qualified capital investment on a gaming facility that exceeds \$2 M and is made towards: (1) onsite infrastructure improvements; (2) construction of a gaming facility or other buildings; (3) rehabilitation, alteration, or major repair of a gaming facility or other buildings or improvements; (4) installation of fixtures and equipment in a gaming facility or other buildings or improvements. The qualified capital investment must be approved by the IEDC. The tax credit is equal to 10% of the qualified investment. The tax credit could be claimed by a licensed owner, permit holder, or operating agent of any Indiana casino or racino. It provides that the tax credit can be carried forward for up to nine taxable years. The tax credit could also be assigned to taxpayers constructing amenities related to the gaming facility and that enhance the gaming experience. The assignment must be approved by the IEDC. The total amount of tax credits awarded may not exceed \$40 M in a state fiscal year. The tax credit could be claimed for investments made after December 31, 2013, and before January 1, 2019. This would mean that investment in up to six state fiscal years (FY 2014 to FY 2019) could qualify for the tax credit.

The provision in the bill allowing the casinos to move inland could increase the magnitude of the fiscal impact from this tax credit. The decision to move inland will depend on various factors, including ownership, facility attributes, market factors, and capital availability. An inland move would require substantial capital investment. Based on recent reports of investment in casinos in other states, it is estimated that the investment could be between \$200 M and \$400 M for each casino. Taking the midpoint of that and applying it to at least 10 Indiana casinos, tax credit related investment could be up to \$3.0 Billion. Based on the annual cap of \$40 M, the maximum impact from the tax credit could be up to \$240 M. The actual impact could potentially be

lower due to market factors restricting investments of large magnitude in the short term.

(Revised) *Mobile Gaming Devices at OTBs*: The bill defines “mobile gaming device” as an electronic device, including software, which: (1) displays information related to a gambling game; and (2) enables a patron to place a wager on a gambling game from a approved location using money placed into a deposit account. The impact on overall slot machine or table game play is indeterminable.

A racetrack permit holder may use an approved limited mobile gaming system to accept and transmit pari-mutuel wagers on horse racing at the satellite facility or off-track betting facility located at the permit holder’s racetrack. A person may not transmit a pari-mutuel wager using a mobile gaming device while present in any other location.

The bill allows a riverboat licensee or operating agent or a racino permit holder to use an approved limited mobile gaming system to accept and transmit wagers on gambling games in the gaming area of a riverboat or racino. A person may not transmit a wager using a mobile gaming device while present in any area other than the gaming area.

The provision could simply shift play from the current wagering methods to the mobile gaming devices at the racetracks, racinos and riverboat casinos.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Promotional Free Play Deduction for Riverboat Casino and Racinos*: The deduction reduces the taxable base for the riverboat wagering tax, some of which is distributed to local units, and the 3% county gambling game wagering tax (currently the county slot machine wagering tax). The estimated revenue loss to local units receiving revenue from these taxes is summarized in the table below.

Local Unit	FY 2014	FY 2015
Rising Sun	(\$0.10 M)	(\$0.10 M)
Gary	(\$0.25 M)	(\$0.25 M)
French Lick	(\$0.04 M)	(\$0.04 M)
Orange County	(\$0.05 M)	(\$0.05 M)
Orange Co. Convention & Visitor's Bureau	(\$0.04 M)	(\$0.04 M)
Orleans	(\$0.03 M)	(\$0.03 M)
Paoli	(\$0.03 M)	(\$0.03 M)
West Baden Springs	(\$0.04 M)	(\$0.04 M)
Madison County	(\$0.04 M)	(\$0.04 M)
Shelby County	(\$0.04 M)	(\$0.04 M)
TOTAL	(\$0.66 M)	(\$0.66 M)

(Revised) *Table Games, Mobile Gaming Device Wagering, and Wagering Tax Rate Structure*: The increase in net AGR from table games at the racinos would result in an increase in the 3% gambling game wagering tax (currently the county slot machine wagering tax). The bill applies the current tax to the combined AGR from slot machines, table games, and mobile gaming devices. The county tax is currently 3% of slot machine AGR generated at the racinos during the fiscal year, up to a maximum of \$8.0 M in annual tax liability.

The provisions providing an alternate wagering tax rate structure to casinos generating AGR below \$75 M and table games at racinos would result in decreased wagering tax collections from the riverboats. This could reduce wagering tax revenues distributed to certain local units. The estimated revenue impact of these provisions on local units receiving wagering tax revenue is summarized in the table below.

Local Unit	FY 2014	FY 2015
Rising Sun	(\$0.66 M)	(\$0.66 M)
Gary	(\$0.27 M)	(\$0.26 M)
French Lick	(\$0.04 M)	(\$0.04 M)
Orange County	(\$0.04 M)	(\$0.04 M)
Orange Co. Convention & Visitor's Bureau	(\$0.04 M)	(\$0.04 M)
Orleans	(\$0.02 M)	(\$0.02 M)
Paoli	(\$0.02 M)	(\$0.02 M)
West Baden Springs	(\$0.04 M)	(\$0.04 M)
Madison County	\$0.96 M	\$0.93 M
Shelby County	\$0.85 M	\$1.05 M
TOTAL	\$0.67 M	\$0.86 M

(Revised) *Admissions Tax Replaced with a Supplemental Wagering Tax*: Local units receiving riverboat admissions tax revenue under current law are estimated to experience a revenue loss due to the change in the amount of the supplemental hold-harmless distribution. (See Explanation of State Expenditures for additional discussion.) The estimated impact of these provisions on local units receiving admissions tax revenue is summarized in the table below.

Local Unit	FY 2014	FY 2015
Vanderburgh County	\$0.14 M	(\$0.43 M)
Vanderburgh County Convention and Visitor's Bureau	\$0.01 M	(\$0.04 M)
Evansville	\$0.14 M	(\$0.43 M)
Lake County	(\$0.83 M)	(\$3.8 M)
Lake County Convention & Visitor's Bureau	(\$0.07 M)	(\$0.34 M)
North West Indiana Law Enforcement Training Center	(\$0.01 M)	(\$0.04 M)
Gary	(\$0.69 M)	(\$2.09 M)
East Chicago	(\$0.14 M)	(\$1.71 M)
Ohio County	(\$0.15 M)	(\$0.96 M)
Ohio County Convention & Visitor's Bureau	(\$0.02 M)	(\$0.10 M)
Rising Sun	(\$0.15 M)	(\$0.96 M)
Dearborn County	\$1.20 M	(\$2.04 M)
Dearborn County Convention & Visitor's Bureau	\$0.12 M	(\$0.20 M)
Lawrenceburg	\$1.20 M	(\$2.04 M)
LaPorte County	(\$0.56 M)	(\$1.02 M)
LaPorte County Convention & Visitor's Bureau	(\$0.06 M)	(\$0.10 M)
Michigan City	(\$0.56 M)	(\$1.02 M)
Harrison County	\$1.14 M	(\$2.96 M)
Harrison County Convention & Visitor's Bureau	\$0.06 M	(\$0.15 M)
Switzerland County	\$0.03 M	(\$1.24 M)
Switzerland County Convention & Visitor's Bureau	0.0	(\$0.06 M)
Orange County	(\$0.03 M)	(\$0.04 M)
Orleans	(\$0.01 M)	(\$0.01 M)
Paoli	(\$0.01 M)	(\$0.01 M)
French Lick	(\$0.01 M)	(\$0.02 M)
West Baden	(\$0.01 M)	(\$0.02 M)
TOTAL	\$0.76 M	(\$21.85 M)

(Revised) *West Baden Springs Historic Hotel Preservation And Maintenance Fund*: The bill appropriates money in the West Baden Springs Historic Hotel Preservation and Maintenance Fund to the Department of Natural Resources. It authorizes the owner of the French Lick Casino to submit claims of not more than \$2 M per state fiscal year for maintenance expenses of the West Baden Springs Hotel. As of June 30, 2012, the fund had a balance of \$20.3 M. In FY 2012 the fund received interest revenues of \$0.04 M.

Under current law, the fund receives 19% of the riverboat wagering tax paid by the French Lick Casino. If the balance in the fund exceeds \$20.0 M, this revenue must be distributed to the state General Fund. Since its inception, the DNR has not approved any expenditures from the fund. As the fund has reached the \$20.0 M threshold, the wagering tax revenues from the French Lick Casino are being deposited in the state General Fund.

(Revised) *Supplemental Fees*: The bill requires the racino in Shelbyville (Indiana Grand Casino) to pay a supplemental fee equal to 2% of AGR in FY 2014 and 1% of AGR in FY 2015 and FY 2016. Revenue from the fee is to be distributed to the French Lick Casino. This would result in the French Lick Casino owner receiving an estimated \$4.7 M in FY 2014, \$2.3 M in FY 2015, and \$2.3 M in FY 2016. There would be no distributions after FY 2016.

State Agencies Affected: Indiana Gaming Commission, Indiana Horse Racing Commission, Department of State Revenues, Indiana Economic Development Commission.

Local Agencies Affected: Local Units receiving riverboat wagering tax, racino wagering tax, or riverboat admissions tax.

Information Sources: Indiana Gaming Commission, Annual Report FY 2011-FY 2012; State Budget Agency, Build Indiana Fund Report FY 2011; OFMA, Casino Data; Revenue Technical Committee Forecast (December 17, 2012); Pennsylvania Gaming Control Board, Gaming Revenue Reports, FY 2010-FY 2012; New Jersey Casino Control Commission, Annual Report 2009-2011.

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